



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII  
901 NORTH 5TH STREET  
KANSAS CITY, KANSAS 66101

FEB 16 2005

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

*Zip 2/24/05*

Mr. Dennis Schuster  
Mayor  
City of Beatrice  
205 N. 4<sup>th</sup> Street  
Beatrice, Nebraska 68310



Dear Mayor Schuster:

Re: Request for Information Pursuant to Section 104 of CERCLA Regarding the Beatrice  
Former Manufactured Gas Plant in Beatrice, Gage County, Nebraska

The United States Environmental Protection Agency (EPA) is currently investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants, into the environment at the Beatrice Former Manufactured Gas Plant in Beatrice, Gage County, Nebraska (the "Site"). This investigation involves, among other things, an inquiry into the past and present ownership of the Site and operators of the Site. EPA believes that you may possess information which may assist the Agency in its investigation of the Site.

In order to complete this investigation, EPA requires that you/your company respond fully and completely to the Information Requests set forth in the enclosure to this letter. Authority to require submission of the type of information requested has been given to EPA by Congress under Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), 42 U.S.C. § 9604(e). EPA requires that you respond in writing within thirty (30) calendar days of your receipt of this letter.

Compliance with the Information Request set forth in the Attachment is mandatory. The provisions in Section 104 of CERCLA, 42 U.S.C. § 9604, authorize EPA to pursue penalties for failure to comply with these provisions or failure to respond fully and truthfully to an Information Request, or to adequately justify such failure to respond. In addition, providing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, et seq.

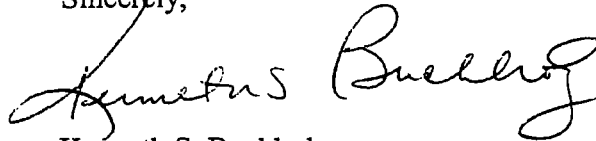
Your response to this Information Request should be mailed to:

Barbara L. Peterson  
U.S. Environmental Protection Agency  
Office of Regional Counsel  
901 North 5<sup>th</sup> Street  
Kansas City, Kansas 66101

If you have any questions concerning the Site or the enclosed Information Request, please contact Ms. Peterson at (913) 551-7277.

EPA strongly encourages you to give this matter your immediate attention and to respond to this Information Request within the time specified above. Thank you for your cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth S. Buchholz". The signature is fluid and cursive, with the first name "Kenneth" and last name "Buchholz" clearly distinguishable.

Kenneth S. Buchholz  
Chief, Enforcement/Fund Lead Removal Branch

Enclosure

cc: Barbara Peterson, EPA Office of Regional Counsel  
Kevin Larsen, EPA Remedial Project Manager

### Information Requested

1. Provide the name, title, area of responsibility, current address and telephone number of the person responding to this information request.
2. Identify the person(s), if other than yourself, to contact regarding this information request, including such person(s) name, title, address and telephone number.
3. Identify each person consulted in responding to this Information Request, state the question number(s) for which each person provided information, and generally describe the information provided by each such person.
4. If you have any reason to believe that there may be persons able to provide a more detailed or complete response to any question contained herein or who may be able to provide additional responsive documents, identify such persons and the additional information or documents that they may have.
5. Do you know or have reason to know of any past, on-going or planned investigations, other than those conducted by EPA or the Nebraska Department of Environmental Quality, of the soil, water (ground or surface), geology, hydrogeology or air quality on or about the Site? If your response is anything but an unqualified "no", state:
  - a. The nature and scope of these investigations;
  - b. The persons who undertook, are undertaking, or plan to undertake these investigations;
  - c. The purpose of the investigations;
  - d. The dates of such investigations; and
  - e. Describe as precisely as possible the locations at the Site where such investigations took, are taking, or will take place.
6. State whether you now have, or ever had any legal or equitable interest (including any interest as a beneficiary under a Deed of Trust or mortgagee under a mortgage) in the Site. If you have/ever had any interest in the Site, provide the following information:
  - a. Describe such interest;
  - b. The date that such interest was acquired;
  - c. How such interest was acquired;

- d. If you no longer have any interest in the Site describe when, and to whom, such interest was transferred, and the terms of such transfer;
  - e. Provide copies of all documents evidencing or relating to the acquisition and any subsequent transfer by you of such interest.
7. Describe the nature of your activities or business at the Site, with respect to purchasing, receiving, processing, storing, treating, disposing, or otherwise handling hazardous substances or materials at the Site.
8. Identify all prior owners of the Site. For each prior owner, further identify:
- a. The dates of ownership;
  - b. All evidence showing that they controlled access to the Site; and
  - c. All evidence that a hazardous substance, pollutant, or contaminant, was released or threatened to be released at the Site during the period that they owned the Site.
9. Identify all prior operators of the Site, including lessors, of the Site, For each such operator, further identify:
- a. The dates of operation;
  - b. The nature of prior operations at the Site;
  - c. All evidence that they controlled access to the Site; and
  - d. All evidence that a hazardous substance, pollutant, or contaminant was released or threatened to be released at or from the Site and/or its solid waste units during the period that they were operating the Site.
10. Provide all reports, information or data related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data.
11. Identify all leaks, spills or releases or threats of releases of any kind into the environment of any hazardous substance that have occurred or may occur at or from the Site. In addition, identify:
- a. When such releases occurred or may occur.
  - b. How the releases occurred or may occur.

- c. What hazardous substances were released or may be released.
  - d. What amount of each such hazardous substances was so released.
  - e. Where such releases occurred or may occur.
  - f. Any and all activities undertaken in response to each such release or threatened release.
  - g. Any and all investigations of the circumstances, nature extent or location of each such release or threatened release including the results of any soil, water (ground and surface), or air testing that was undertaken.
  - h. All persons with information relating to subparts a through g of this question.
12. Provide information about the Site, including but not limited to the following:
- a. Property boundaries, including a written legal description;
  - b. Location of underground utilities (telephone, electrical, sewer, water main, etc.);
  - c. Surface structures (e.g., buildings, tanks, etc.);
  - d. Groundwater wells, including drilling logs;
  - e. Storm water drainage system, and sanitary sewer system, past and present, including septic tank(s), subsurface disposal field(s), and other underground structures; and where, when and how such systems are emptied;
  - f. Any and all additions, demolitions or changes of any kind on, under or about the Site, its physical structures or to the property itself (e.g., excavation work); and any planned additions, demolitions or other changes to the site; and
  - g. All maps and drawings of the Site in your possession.

## REQUEST FOR INFORMATION

### Instructions

1. You are required to provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.
2. Precede each answer with the number of the question to which it corresponds.
3. If information or documents not known or not available to you on the date of submission of your response to this Information Request should become known or available to you at a later date, you must supplement your response to EPA. Moreover, should you find at any time after the submission of this response that any portion of the submitted information is false or misrepresents the truth, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Information Request, identify the document and indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
5. The information requested herein must be provided even though the Respondent may contend that it includes confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to Section 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. § 9604(e)(7)(E) and (F), and 40 C.F.R. 2.203(b), by segregating such materials for which a claim of confidentiality is being asserted from those materials for which no claim of confidentiality is being asserted, and attaching to those materials for which a claim of confidentiality is being asserted, at the time such materials are submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret," or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only to the extent, and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statute and regulation carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
6. Information which you submit in response to this Information Request may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. § 2.310(h), notwithstanding your assertion that all or part of it may be confidential business information. Please be advised that EPA may disclose your response to this Information Request to a contractor, if a contractor is retained to organize and analyze the information contained in the responses to this Information Request. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this possible disclosure within ten (10) days of receiving this Information Request.

## Definitions

The following definitions shall apply to the following words as they appear in this Enclosure:

1. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, unincorporated association, partnership, corporation, trust or other entity.
3. The terms "the Site" shall mean the Beatrice Former Manufacturing Gas Plant located in Beatrice, Gage County, Nebraska.
4. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA and includes any mixtures of such hazardous substances with any other substances, including petroleum products.
5. The term "pollutant or contaminant," shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances, including petroleum products.
6. The term "hazardous waste" shall have the same definition as that contained in Section 1004(5) of RCRA..
7. The term "materials" shall mean all substances that have been generated, treated, stored, disposed of or otherwise handled at, or transported to the Site; including, but not limited to, all hazardous substances, pollutants and contaminants, and hazardous wastes as defined above and specifically, benzene, toluene, ethylbenzene, naphthalene, arsenic, barium, chromium and mercury .
8. The term "hazardous material" shall mean all hazardous substances, pollutants or contaminants, and hazardous wastes, as defined above.
9. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
10. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g. corporation, partnership, etc.), organization, if any, and a brief description of its business.

11. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and the substance or the subject matter.

12. The term "release" has the same definition as that contained in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22), and includes any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

13. The terms "document" and "documents" shall include: (a) writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intra-office communications, photostat or other copy of any documents; (b) microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc or disc pack; (c) any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with printouts of such punch card, disc, or disc pack, tape or other type of memory); and (d) (1) every copy of each document which is not an exact duplicate of a document which is produced, (2) every copy which has any writing, figure or notation, annotation or the like of it, (3) drafts, (4) attachments to or enclosures with any document and (5) every document referred to in any other document.

14. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.

15. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, and title 40 of the Code of Federal Regulations.